

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-023693
Issue No.: 1000;2001;3001;6000
Agency Case No.: ██████████
Hearing Date: February 08, 2016
County: Wayne-District 17

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on February 8, 2016, from Detroit, Michigan. Petitioner appeared for the hearing with his brother, ██████████ and represented himself. The Department was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's Family Independence Program (FIP), Child Development and Care (CDC), Food Assistance Program (FAP), and Medical Assistance (MA) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was not an ongoing recipient of FIP and CDC benefits and did not submit an application for FIP and CDC benefits prior to his hearing request.
2. Petitioner was an ongoing recipient of FAP and MA benefits.
3. On November 17, 2015, Petitioner submitted an application to the Department to have his wife and four children added to his active FAP and MA cases, as they had moved into his home on November 10, 2015. (Exhibit A, p. 1)

4. On December 1, 2015, the Department received Petitioner's FAP and MA Redetermination, on which he reports that his wife and four children moved into his home on November 10, 2015. (Exhibit A, pp.2-3)
5. On December 8, 2015, Petitioner completed a Change Report on which he again reported that his wife and children have moved into his home. (Exhibit A, p. 3)
6. The Department failed to process Petitioner's member add application or reported changes and Petitioner's wife and children's eligibility for FAP and MA was not determined.
7. On December 22, 2015, Petitioner requested a hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

FIP/CDC

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Petitioner submitted a hearing request disputing the actions of the Department with respect to his FIP and CDC benefits. Soon after commencement of the hearing, Petitioner testified that he was not an active and ongoing recipient of FIP or CDC benefits and that he had not submitted an application for FIP or CDC prior to his filing of a hearing request. Because the Department had neither determined Petitioner's eligibility for FIP or CDC nor had the Department taken any negative action with respect to Petitioner's FIP or CDC benefits prior to his hearing request; Petitioner's hearing request with respect to FIP and CDC is **DISMISSED** for lack of jurisdiction. BAM 600

(October 2015), pp.2- 6. Petitioner was informed that he was entitled to submit an application for FIP and CDC benefits and that the Department would determine his eligibility for benefits.

FAP/MA

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Additionally, the Department determines FAP group composition by applying the factors found in BEM 212. BEM 212 (July 2014), p. 1. For FAP purposes, a member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. When a member leaves a group to apply on his own or to join another group, the Department is to do a member delete in the month the Department learns of the application/member add and initiate recoupment of FAP benefits on the other case, if necessary. BEM 212, p. 9. For MA, the Department determines group composition by applying the factors found in BEM 211. BEM 211 (January 2015). The Department is to process applications and reported changes such as member adds for MA in accordance with the policies found in BAM 110 (July 2015); BAM 115 (October 2015); and BAM 220 (October 2015).

In this case, Petitioner was an ongoing recipient of FAP and MA benefits. Petitioner requested a hearing disputing the Department's failure to process a member add application, redetermination, and change report that he submitted to the Department on which he reported that his wife and four children were now living in his home. (Exhibit A). The Department acknowledged that it received Petitioner's application, redetermination, and change report and stated that as of the hearing date, the Department still had not processed the reported changes or had Petitioner's wife and children added on to his cases. It was established that the Department had not determined Petitioner's wife and children's eligibility for MA or FAP.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not

act in accordance with Department policy when it failed to timely process Petitioner's reported changes and have his family members added to his FAP and MA cases.

DECISION AND ORDER

Accordingly, Petitioner's hearing request with respect to FIP and CDC is **DISMISSED** and the Department's MA and FAP decisions are **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Process Petitioner's November 17, 2015, member add application, and the reported changes in accordance with Department policies;
2. Recalculate Petitioner's FAP budget to include the additional members, if otherwise eligible;
3. Issue FAP supplements to Petitioner for any FAP benefits he was entitled to receive but did not from the November 17, 2015, application date, ongoing;
4. Determine Petitioner's wife and children's eligibility for MA under the most beneficial MA category from November 17, 2015, ongoing;
5. Provide Petitioner's wife and children with MA coverage from November 17, 2015, ongoing, in accordance with Department policies; and
6. Notify Petitioner in writing of the Department's decisions.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/18/2016**

Date Mailed: **2/18/2016**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion. MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

